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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/757,140	01/13/2004	Jace Agee	1990.AGEE.NP	3819
26986	7590	01/17/2006		
MORRISS O'BRYANT COMPAGNI, P.C. 136 SOUTH MAIN STREET SUITE 700 SALT LAKE CITY, UT 84101			EXAMINER VANAMAN, FRANK BENNETT	
			ART UNIT	PAPER NUMBER
			3618	

DATE MAILED: 01/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/757,140

Applicant(s)

AGEE ET AL.

Examiner

Frank Vanaman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 January 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Application Status

1. Applicant's request, filed Jan. 20, 2005 is acknowledged. The Application is pending in the office. A First Action on the Merits follows.

Specification

2. The abstract of the disclosure is objected to because of the following informality: on line 1, "is disclosed" is redundant and should be deleted. Correction is required. See MPEP § 608.01(b).

Claim Objections

3. Claims 5, 13, 17 and 18 are objected to because of the following informalities: in claim 5, line 1, it appears as though there should be a space between "1" and "further"; in claim 13, line 3, it appears as though "is" should be -in-; in claim 17, line 2, again, it appears as though "is" should be -in-; in claim 18, line 2, it appears as though "fend" should be -fender-. Appropriate correction is required.

Claim Rejections - 35 USC § 112

4. Claims 10-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 10, lines 7-8 the reference to the handle in association with a position of the bed is not entirely clear in that it appears as though the 'second collapsed position' is a position associated with the bed and not the handle; in claim 14, lines 2-3 there is no clear antecedent basis for the handle assembly being in "said first collapsed state". It appears as though care should be taken in differentiating the respective positions associated with the handle and with the bed in the claim recitations.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action: (over)

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1, 3, 5, 7-11, 15 and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Foss et al. (US 4,637,626). Foss et al. teach a cart for hauling items, including a bed comprising at least two sections (17, 52) joined together for pivotal motion (at 65) between extended and collapsed positions, plural right and left handle portions (81, 82), connected together by a cross bar (83) which functions as a handle portion as well, and serves as a spacer between elements 81 and 82 and which links them together to allow them to both be moved in unison, and at least one wheel assembly (30, 31) secured to the cart at a position opposite that of the handle portions; the handles being pivotally connected to the cart (at 76) and further including plural locking devices (90, 94) for securing the handle portions in an extended use position; at least one frame (13, 14, 15, 16, etc) surrounding the bed (17); a cart bed positioning mechanism constituting the respective contacting ends of portions 13 and 45, and portions 14 and 44 which inter-engage to position the cart in a non-collapsed state (see figures 4 and 5); a handle positioning mechanism constituting the respective engaging sides of 71 and 15, and 74 and 15, which position the handle in a non-collapsed position; the cart bed including a fender element (117) positioned between the wheels (e.g., 30, 31) and the bed (e.g., 52).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 4 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Foss et al., (cited above). The reference to Foss et al. is discussed above and fails to

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teach the locking device being further "structured and positioned" so as to secure the handle portions in a collapsed state. Foss et al, at col. 9, lines 33-36, notes that any appropriate means may be used to secure the respective base supports to one another when in a collapsed state, but fails to teach a specific structure. Inasmuch as Foss et al. already teaches the use of a common spring-pin lock (90,94), it would have been obvious to one of ordinary skill in the art at the time of the invention to include in the taught locking mechanism at least a further spring pin lock positioned to engage between the frame portions in a folded state, for the purpose of securing the frame in a collapsed position, which (note figures 1, 2) would additionally serve to secure the handle in a collapsed condition, for the purpose of preventing the cart from unexpectedly unfolding from the collapsed position when in storage, for example.

9. Claims 2, 6, 12, 13, and 17-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Foss et al. in view of Capraro (US 5,215,318). With respect to claims 19 and 20, see the rejection of claims 4 and 14 above. The reference to Foss et al. is discussed above and fails to teach the provision of an auxiliary handle positioned opposite a wheel for transporting the cart in a collapsed condition. Capraro teach a cart having an additional auxiliary handle (50), being positioned on the opposite side of the cart from at least one wheel (i.e., the wheel positioned on the other side from the side the handle is mounted upon), the handle for use when the cart main handle (28, 51) is not in use, and at least one base element (e.g., 44) is in a collapsed condition (compare figure 9a with figures 5, 6, and 9d). It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the cart taught by Foss et al. with an additional handle as suggested by Capraro, for the purpose of allowing a user to carry the cart by hand when it is not being pushed or pulled by the main handles (81, 82).

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Born (US 3,035,847), Manfredi, Jr. et al. (US 3,305,243), Rogers

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(US 5,179,746), Parks (US 5,577,744), Austin (US 5,915,723), and Tucker (US 6,059,298) teach cart and carrier structures of pertinence.

11. Any inquiry specifically concerning this communication or earlier communications from the examiner should be directed to F. Vanaman whose telephone number is 571-272-6701.

Any inquiries of a general nature or relating to the status of this application may be made through either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A response to this action should be mailed to:

Mail Stop _____
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450,

Or faxed to:

PTO Central Fax: 571-273-8300

F. VANAMAN
Primary Examiner
Art Unit 3618



Handwritten signature of F. Vanaman, dated 1/1/08.